

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HENRY ALLEN RICHARDSON

Plaintiff,

CRIM. CASE NO. 06-20676
CIVIL CASE NO. 09-11000

v.

JUDGE PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

UNITED STATE OF AMERICA

Defendant.

/

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION DENYING PETITIONER'S MOTION TO VACATE
OR SET ASIDE SENTENCE PURSUANT TO TITLE 18 U.S.C. §3582(c)(2) (AUG. 9)**

While the Federal Sentencing Guidelines are no longer mandatory in sentencing an individual, sentences pursuant to legislation establishing mandatory minimum terms of incarceration require the sentencing judge to sentence to a mandatory minimum.

As the Government pointed out in its response to Petitioners motion, and as the Magistrate Judge pointed out in her report and recommendation, the Court sentenced Petitioner to the mandatory minimum sentences required on the counts to which he pled guilty.

The guilty plea benefitted Petitioner insofar as the Government withdrew a 28 U.S.C. §851 enhancement charge in exchange for the plea, thereby saving Petitioner from a life sentence.

The Court also agrees with the magistrate judge that his counsel did not render ineffective assistance.

Accordingly, the Court denies Petitioners' Motion to Vacate or Set Aside Sentence.

SO ORDERED.

S/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: September 21, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on September 21, 2009.

S/Denise Goodine

Case Manager